

STATE OF CALIFORNIA  
DECISION OF THE  
PUBLIC EMPLOYMENT RELATIONS BOARD



INTERNATIONAL UNION OF OPERATING  
ENGINEERS, STATIONARY LOCAL NO. 39,

Charging Party,

v.

CITY OF FRESNO,

Respondent.

Case No. SA-CE-752-M

PERB Decision No. 2373-M

May 16, 2014

Appearances: Weinberg, Roger & Rosenfeld by Gary Provencher, Attorney, for International Union of Operating Engineers, Stationary Local No. 39; Liebert, Cassidy & Whitmore by Shelline K. Bennett and Che I. Johnson, Attorneys, for City of Fresno.

Before Huguenin, Winslow and Banks, Members.

DECISION

HUGUENIN, Member: This case is before the Public Employment Relations Board (PERB or Board) on exceptions to the proposed decision of a PERB administrative law judge which held that the City of Fresno (City) violated the Meyers-Milias-Brown Act (MMBA),<sup>1</sup> sections 3503, 3505 and 3506 and PERB Regulation 32603(a), (b) and (c),<sup>2</sup> by unilaterally implementing a furlough program for fiscal year 2011-2012 without meeting and conferring in good faith with the International Union of Operating Engineers, Stationary Local No. 39 (Local 39).

Subsequently, the City filed a request with the Board to withdraw its exceptions to the proposed decision, pursuant to a settlement agreement between the parties.

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<sup>1</sup> MMBA is codified at Government Code section 3500 et seq.

<sup>2</sup> PERB Regulations are codified at California Code of Regulations, title 8, section 31001 et seq.

In cases where exceptions have been filed, the Board is guided by PERB

Regulation 32320 which provides, in pertinent part:

- (a) The Board itself may:
  - (1) Issue a decision based upon the record of hearing, or
  - (2) Affirm, modify or reverse the proposed decision, order the record re-opened for the taking of further evidence, or take such other action as it considers proper.

The Board has considered the request for withdrawal and concurs that withdrawal is in the best interest of the parties and is consistent with the purposes of the MMBA.

Accordingly, the Board grants the City's request to withdraw its exceptions.

#### ORDER

The request to withdraw the exceptions to the proposed decision in Case No. SA-CE-752-M is hereby GRANTED and the exceptions are WITHDRAWN.<sup>3</sup>

Members Winslow and Banks joined in this Decision.

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<sup>3</sup> Pursuant to PERB Regulation 32305, the proposed decision shall become final.